

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

75-1129

B

Docket No. 75-

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

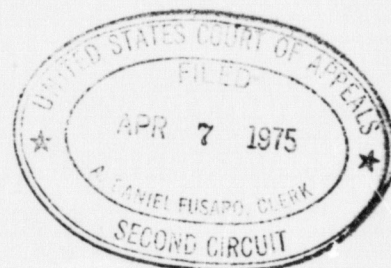
IN THE MATTER OF:

SALVATORE BONITO, A Grand Jury Witness, Docket No. 75-

On Appeal from the United States District
Court for the Western District of New York

APPELLANT'S CONSOLIDATED APPENDIX

DIPASQUALE, PACK & HAUSBECK
Herbert L. Greenman, of Counsel
Attorneys for Appellant Bonito
Office and Post Office Address
510 Brisbane Building
Buffalo, New York 14203



2

PAGINATION AS IN ORIGINAL COPY

TABLE OF CONTENTS

<u>ITEM #</u>		<u>PAGE</u>
1.	Docket Sheet-Bonito	1
2.	Grand Jury Transcript-Bonito	3
3.	Government Affidavit- Bonito	20

Misc. Crim. # 161

D. C. Form No. 100 Rev.

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	<i>For U. S.:</i>
vs.	James Gressens, Esq.
IN THE MATTER OF THE GRAND JURY	Dept. of Justice Strike
SALVATORE BONITO, A GRAND JURY WITNESS	Force
	Suite 921, Genesee Bldg.
	1 W. Genesee Street
	Buffalo, N.Y. 14202
	(716) 842-3285
	<i>For Defendant:</i>
	Herbert Greenman, Esq.
	(assigned)
	510 Brisbane Building
	Buffalo, N.Y. 14203
	716-854-2836

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 2 mailed	Clerk				
J.S. 3 mailed	Marshal				
Violation	Docket fee				
Title					
Sec.					

DATE
1975

PROCEEDINGS

Feb. 27	Salvatore Bonito, a grand jury witness, present without counsel, requests the court to assign an atty.; Court will assign an Attorney. Witness id directed to appear at 9:30 a.m. on 3/6/75.
Mar. 6	Filed Order and application for Order requiring testimony before Grand Jury
Mar. 6	Government moves for immunity for witness. Motion granted. Witness is directed by court to go before the grand jury and answer questions put to him.
Mar. 10	Filed cy. 5 of CJA 20--order appointing Herbert Greenman as counsel for witness Salvatore Bonito CURTIN, J.
Mar. 19	Witness present with counsel. The Government moves for the confinement of the witness for contempt of court in failing to answer questions before the grand jury. On motion of the counsel for the witness, this matter is adj. until tomorrow morning at 9:30 a.m.
Mar. 19	Filed Affidavit of James W. Gresens, Sp. Atty. employed by the Department of Justice and assigned to the Organized Crime Strike Force in Buffalo, that the FBI, had not conducted any form of electronic surveillance at the residence of Salvatore

PROCEEDINGS

DATE
1975

Mar. 19	Bonito, and had not identified Salvatore Bonito on any form of electronic surveillance during the period commencing on Jan. 1, 1974, through and including March 17, 1975
Mar. 20	Witness present with counsel. The Government moves for the confinement of the witness for contempt of court for failure to answer question before the Grand Jury. Motion Granted. Witness is remanded to the custody of the U.S. Marshal until he testifies before the Grand jury or for 18 months or for the life of the grand jury.
Mar. 20	Filed Notice of motion, application and Order for an Order, pursuant to Section 1826 of Title 28, U.S.C., remanding Salvatore Bonito to the custody of the U.S. Marshal for failing to testify before the Grand Jury
Mar. 20	Filed Order that the Grand Jury Witness Salvatore Bonito be and is hereby remanded to the custody of the U.S. Marshal for the Western District of New York who shall confine him in some suitable place until such time as the said Witness shall indicate a willingness to testify and provide information in accordance with the previous Order of this Court or until such time as the Grand Jury shall be discharged or in any event no longer than a period of Eighteen (18) months, whichever shall occur first, in accordance with the provisions of Section 1826 of Title 28 of United States Code-- CURTIN, J.
Mar. 20	Filed cy. 5 of CJA 21--authorization for transcript--cy.4 to Adm. Office
Mar. 26	Filed Ct. Stenographer's transcript of the proceedings before Judge Curtin, , U.S. Courthouse, Buffalo, N.Y., commencing on 2/27/1975
Mar. 28	Filed Defendant's Notice of Appeal
Mar. 31	Cy. of Defendant's Notice of Appeal, mailed to the Government, defendant CCA with statement of docket entries, forms, A, B & CJA-23
Mar. 31	Filed Cy. 2 of CJA-21 - Voucher for transcript in the amt. of \$40.00; Orig. to the Adm. office for payment.
Apr. 2	Filed Cy. of transcript of testimony of Salvatore Bonito taken in proceedings held before the U.S. Grand Jury, on March 6, 1975, commencing at 2:10 P.M.

626-629 Liberty Bank Bldg.

Buffalo, N. Y. 14202

853-5600

SALVATORE BONITO

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CONFIDENTIAL

IMMUNITY TESTIMONY

READ and COMPLETE
ATTACHED FORM

STATEMENTS

UNITED STATES OF AMERICA,

-vs-

EXAMINATIONS
BEFORE TRIAL

JOHN DOE,

Defendant.

DEPOSITIONS

Testimony of SALVATORE BONITO, taken
in proceedings held before the United States
Grand Jury, in the Federal Building, Buffalo,
New York, taken on March 6, 1975, commencing at
2:10 P.M.

CONFERENCES

APPEARANCES:

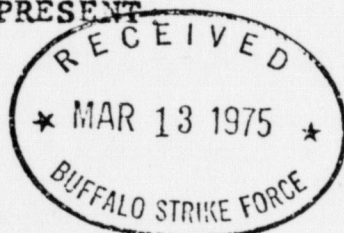
RICHARD J. ARCARA, ESQ.,
United States Attorney,
By: JAMES W. GRESENS,
Special Justice Department Attorney,
United States Courthouse,
Buffalo, New York.

CONVENTIONS

ARBITRATIONS

PRESENT

KRISTA K. SMITH,
Grand Jury Court Reporter.



CERTIFIED SHORTHAND REPORTER
LICENSED BY THE
STATE OF NEW YORK
CERTIFICATE NO. 517

Jack W. Hunt C. S. R.

OFFICIAL SUPREME COURT REPORTER

& Associates

1 S A L V A T O R E B O N I T O , 48 Raintree Isle,
2 Tonawanda, New York, having been duly called and sworn,
3 testified as follows:
4

5 EXAMINATION BY MR. GRESENS:
6

7 Q. Mr. Bonito, you appeared before Judge Curtin this
8 morning, and the Judge signed an order granting
9 you immunity from prosecution in connection with
10 your testimony here today. I'm sure your lawyers
11 have already explained to you, but I want to make
12 sure I've explained it to you as well.

13 A. That's right, sir.

14 Q. He has explained it to you?

15 A. Yes, sir.

16 Q. Let me just go over it once more for you. Being
17 granted immunity from prosecution means that
18 nothing that you say in the Grand Jury Room
19 can be used against you in any way in a Court of
20 law. This also means that anything you say here
21 cannot be used to develop other information to
22 be used against you. You are receiving complete
23 immunity from any further prosecution in connection

1 with anything you say in this Grand Jury room.
2 The only thing for which you will not be granted
3 immunity is perjury. If you answer any questions,
4 you must answer truthfully. The Court Reporter
5 is present and is taking down all the proceedings
6 in this room. If you answer any question falsely,
7 you may be prosecuted for perjury. Do you
8 understand that, sir?

9 A. I do.

10 Q. Now, your attorney, Mr. Greenman, is waiting right
11 outside the door here for you. I want you to
12 feel free to leave the room at any time that
13 you choose to talk to Mr. Greenman. You can talk
14 to him about any problems that you have with the
15 questions I ask or if you have any questions in
16 your own mind that you want to ask him, please
17 feel free to leave at any time. Do you understand
18 that, sir?

19 A. I do.

20 Q. Mr. Bonito, have you ever been present at Nairy's
21 Social Club located at 314 West Ferry Street in
22 Buffalo, New York?
23

1 A. I respectfully decline to answer that question
2 on the ground that my answer may tend to incriminate
3 me, and on further grounds that to answer that
4 question would violate my rights under the First,
5 Fourth, Fifth, Sixth and Ninth Amendments to the
6 United States Constitution.

7 Q. Let the record reflect that Mr. Bonito has just
8 read a statement from a piece of paper which is
9 there in his hands. Mr. Bonito, I want to advise
10 you once more that you've been granted immunity
11 from prosecution here.

12 A. That's right, sir.

13 Q. And, what this immunity grant -- immunity means
14 is that you cannot incriminate yourself here,
15 nothing that you say can be used against you.
16 Accordingly, this takes away your Fifth Amendment
17 right to refuse to testify. Judge Curtin said
18 in Court this morning that persons who are granted
19 immunity from prosecution may not use the Fifth
20 Amendment right to protect others. Now, I want
21 you to also understand, Mr. Bonito, that if you
22 refuse to answer questions here, the Government
23 will request that Judge Curtin sign an order

1 remanding you to the United States Marshalls,
2 and you will be -- may be incarcerated until
3 such time as you answer those questions. Do you
4 understand that, sir?

5 A. Yes.

6 Q. And, you still refuse to answer that question?

7 A. Yes, sir.

8 Q. You can leave the room if you want to talk
9 to Mr. Greenman. Would you like to go out and
10 talk to your attorney?

11 A. I may have that opportunity?

12 Q. You may at any time, sir.

13 A. May I go out there and talk to him?

14 Q. Yes, sir, you can.

15 (Whereupon, the witness left the Grand
16 Jury room at 2:14 P.M.)

17 (Whereupon, the witness re-entered
18 the Grand Jury room at 2:15 P.M.)

19 BY MR. GRESENS:

20 Q. Mr. Bonito, have you had a chance to talk to your
21 lawyer?

22 A. Yes, sir.

23 Q. Do you want to make any statement at this time?

1 A. He gave me the same answer that I've given you.

2 Q. Okay. So, you're going to refuse to answer that
3 first question?

4 A. Yes, sir.

5 Q. Mr. Bonito, between June of 1974 and February of
6 1975, did you ever see a Ziginette card game played
7 at Nairy's Social Club?

8 A. I respectfully give you the same answer.

9 Q. You're going to refuse to answer that question?

10 A. Yes, sir.

11 Q. I want you to know, Mr. Bonito, that your refusal
12 to answer these questions can result in Judge Curtin's
13 finding you in contempt of this Grand Jury. Do
14 you understand that?

15 A. I understand that, sir.

16 Q. Mr. Bonito, have you ever seen Joseph Michael Fino
17 supervising the collection of money from any
18 Ziginette game or supervising the loaning of money
19 in connection with any Ziginette games at Nairy's
20 Club?

21 A. I respectfully give the same answer.

22 Q. You're refusing to answer the question, is that
23 right?

1 A. Yes, sir.

2 Q. I just want to remind you you can go out and
3 talk to Mr. Greenman at any time you want to.
4 Do you want to talk to Mr. Greenman now?

5 A. No, sir.

6 Q. Mr. Bonito, do you have any knowledge that Charles
7 Cassaro, Joseph Fino, Angelo Massaro, and John V.
8 Cammilleri were the original founders of Nairy's
9 Social Club in the spring of 1974, and that
10 Salvatore Pieri has taken over John Cammilleri's
11 interest in the club after the latter's death?

12 A. I respectfully decline to answer the same question.

13 Q. I'm sorry, you said you respectfully decline to
14 answer the same question?

15 A. I give you the same answer, I respectfully decline
16 to answer that question on the grounds that my
17 answer would tend to incriminate me, on the further
18 ground that to answer that question it would violate
19 my right under the First, Fourth, Fifth, Sixth
20 and Ninth Amendments to the United States Constitution.

21 Q. Mr. Bonito, have you ever borrowed money at Nairy's
22 Social Club from Joseph Fino, Michael Bona,
23 Gaetano Miceli, Frank Fantauzzo, or Gasper Bona?

1 A. I respectfully give the same answer.

2 Q. Are you refusing to answer that question?

3 A. Yes, sir.

4 Q. Mr. Bonito, have you ever observed Joseph Fino,
5 Michael Bona, Frank Fantauzzo, Gaetano Miceli,
6 or Gasper Bona, loaning money to any person
7 at Nairy's at a six for five rate of interest
8 or at any other rate of interest?

9 A. I respectfully give the same answer.

10 Q. That is you're refusing to answer the question?

11 A. I refuse to answer the question.

12 Q. Mr. Bonito, have you ever observed a Ziginette
13 card game at Nairy's Social Club in which approximately
14 five percent of the amount bet on each hand was
15 raked and deposited in a special box kept by the
16 Ziginette dealer?

17 A. I respectfully give the same answer.

18 Q. I have to keep asking you whether you're refusing
19 to answer these questions.

20 A. Same questions, yes.

21 Q. You're refusing?

22 A. Yes, sir.

23 Q. Mr. Bonito, I've asked you about seven questions so

1 far, and you've refused to answer all of them.
2 I just want to be sure that you know the refusal
3 may be considered by Judge Curtin to be in contempt
4 of the Grand Jury, and if he does find you in
5 contempt of the Grand Jury, he can order you
6 incarcerated until such time as you answer or
7 until the time that the Grand Jury expires or
8 eighteen months, whichever of those are the shorter
9 period of time. Do you understand that, sir?

10 A. Yes, sir.

11 Q. Mr. Bonito, have you ever been present at Nairy's
12 Social Club when Joseph Fino or Michael Bona
13 removed the raked money from the dealer's box
14 and thereafter counted, retained or loaned out
15 such money?

16 A. I respectfully -- respectfully give the same
17 answer.

18 Q. And, I take that answer is you're going to refuse
19 to testify?

20 A. Yes, sir.

21 Q. Mr. Bonito, do you have any knowledge, personal
22 or otherwise, to the effect that the Zigarette
23 game at Nairy's Social Club has been in continuous

1 operation between June and December of 1974, and
2 that Michael Bona, Gasper Bona, Thomas Miceli,
3 Joseph Fino, Frank Fantauzzo, and Joseph Moses
4 were employed to manage or supervise the Ziginette
5 game?

6 A. I respectfully give the same answer.

7 Q. You refuse to answer that question, sir?

8 A. Yes, sir.

9 Q. Mr. Bonito, have you ever been present at the
10 premises sometimes known as the Blue Banner Social
11 Club, which is also known as the Gettysburgh Social
12 Club, located at 14th and Connecticut Streets in
13 Buffalo, New York, and sir, have you observed a
14 Ziginette card game at that location in which
15 a percentage of the amount bet on each hand was
16 raked and deposited in a special box kept by the
17 Ziginette dealer?

18 A. I respectfully give the same answer.

19 Q. You are refusing to answer that question as well?

20 A. Yes.

21 Q. Mr. Bonito, have you ever been present at the
22 Connecticut Street Social Club when Nicholas Rinaldo
23 or William Sciolino removed the raked money from

1 the dealer's box and thereafter counted, retained,
2 or loaned such money?

3 A. I respectfully give the same answer.

4 Q. And, you're refusing to answer the question, is
5 that correct?

6 A. Yes, sir.

7 Q. Mr. Bonito, have you yourself ever borrowed money
8 from Nicholas Rinaldo or William Sciolino at a
9 six for five rate of interest or at any other
10 rate of interest?

11 A. I respectfully give the same answer.

12 Q. Mr. Bonito, have you ever seen Nicholas Rinaldo
13 or William Sciolino loaning money to any person
14 at a six for five rate of interest or at any
15 other rate of interest?

16 A. I respectfully give you the same answer.

17 Q. And, that answer is you're refusing to answer
18 the question?

19 A. Yes, on my Constitutional rights, First, Fourth,
20 Fifth, Sixth and Ninth Amendments. of the United
21 States Constitution.

22 Q. I know that's the answer you've been giving there
23 today, Mr. Bonito, but even though you're relying

1 on those Constitutional rights, I've told you
2 and I want to emphasize again that the Government
3 will ask Judge Curtin to sign an order remanding
4 you in custody of the Marshall until you answer.
5 Do you understand that, sir?

6 A. Yes, sir.

7 Q. Mr. Bonito, have you yourself ever personally
8 borrowed money from Frank Chimento at a six for
9 five rate of interest or do you know of any other
10 person who has ever borrowed money from Frank
11 Chimento, who is also known as Frank Poochie,
12 at a six for five rate of interest?

13 A. I respectfully give the same answer.

14 Q. Mr. Bonito, were you present at the Connecticut
15 Street Social Club on or about August 6th of
16 1974, when Frank Timineri was beaten by Frank
17 Chimento?

18 A. I respectfully give the same answer.

19 Q. Mr. Bonito, do you have any knowledge, personal
20 or otherwise, to the effect that the Ziginette
21 game at the Connecticut Street Club has been in
22 continuous operation between June and December of
23 1974, with Nicholas Rinaldo, William Sciolino,

1 Joseph Buscaglia, Robert Barresi, who is also
2 known as Bobby-the-Tie, Chicky Russo, Lawrence
3 Panaro, and Carmen Mambrino employed as
4 managers or supervisors of this Ziginette game?

5 A. I respectfully give the same answer.

6 Q. Mr. Bonito, would you like to go and consult with
7 your counsel before I go any further? Do you
8 have any questions you want to ask him?

9 A. No, sir.

10 Q. Mr. Bonito, were you present at Nairy's Social
11 Club on August 15th, 1974, at approximately nine
12 p.m., and if so, did you observe Michael Bona
13 loaning money to players in the Ziginette game
14 which was then in progress?

15 A. I respectfully give the same answer.

16 Q. You're going to refuse to answer that question?

17 A. Yes, sir.

18 Q. Mr. Bonito, were you present at Nairy's Social
19 Club on the 15th of August of 1974, at approximately
20 nine p.m., at which time a Ziginette card game
21 was in progress and in which amounts up to
22 six hundred dollars were bet on a single card?

23 A. I respectfully give the same answer.

1 Q. Mr. Bonito, were you present at Nairy's Social
2 Club on September 19, 1974, at approximately
3 seven p.m., at which time there was a Ziginette
4 card game in progress in which Gasper Bona was
5 1 loaning money to various players in that Ziginette
6 game?

7 A. I respectfully give the same answer.

8 Q. You're refusing to answer that question, sir?

9 A. Yes.

10 Q. Mr. Bonito, I've explained to you what a grant
11 of immunity means and that you cannot be prosecuted
12 for what you say. I've also explained to you that
13 you may be held in contempt of this Grand Jury
14 for refusing to answer. Do you understand those
15 things that I've said, sir?

16 A. Yes.

17 Q. Now, I don't have any more questions to ask you,
18 Mr. Bonito. If you would like to go out and
19 consult with your Counsel, Mr. Greenman, I'd
20 like to give you the opportunity to do so and
21 you can go talk to him and if you wish you can
22 come back in here and answer any or all of the
23 questions that I've put to you. Do you wish

1 to consult with your counsel for this purpose?

2 A. I think I'll go and have a talk with him for
3 a minute.

4 Q. Fine, sir, go ahead.

5 (Whereupon, the witness left
6 the Grand Jury room at 2:29 P.M.)
7 (Whereupon, the witness re-entered
8 the Grand Jury Room at 2:31 P.M.)

9 BY MR. GRESENS:

10 Q. Mr. Bonito, you've talked to your attorney,
11 Mr. Greenman. Do you have anything that you
12 would like to answer to the last question?

13 A. Yes, sir, I may give you the same, I respectfully
14 decline to answer that question on the ground that
15 my answer may tend to incriminate me and on further
16 grounds that to answer that question would violate
17 my right under the First, Fourth, Fifth, Sixth
18 and Ninth Amendments of the United States Constitution.

19 Q. Well, just to get this clear on the record, the
20 question was whether or not you wanted to talk
21 to your attorney and give me any further answers,
22 and I take it you do not wish to answer any
23 further at this time?

1 A. Yes.

2 Q. That's all Mr. Bonito.

3 * * * * *

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

13

C E R T I F I C A T I O N

This is to CERTIFY that I, KRISTA K. SMITH,
having attended a session of the Federal Grand Jury,
as Grand Jury Stenographer, reported the proceedings
contained in the foregoing sixteen pages at the time
and place set forth in the heading in the matter of
UNITED STATES OF AMERICA versus JOHN DOE. That the
transcript is an accurate and complete record of the
proceedings to the best of my ability.

Krista K. Smith

KRISTA K. SMITH

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

IN THE MATTER OF :
SALVATORE BONITO :
A GRAND JURY WITNESS :
_____:

AFFIDAVIT

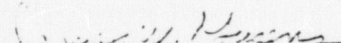
STATE OF NEW YORK)
COUNTY OF ERIE) ss.:
CITY OF BUFFALO)

JAMES W. GRESENS, being duly sworn, deposes and says:

1. That I am a Special Attorney employed by the Department of Justice and assigned to the Organized Crime Strike Force in Buffalo, and that I am fully familiar with all of the facts and circumstances of the above-referenced case.
2. That I am personally in charge of the investigation of the activities occurring at Nairy's Social Club and the Connecticut Social Club in Buffalo, New York.
3. That the aforesaid investigation commenced in the spring of 1974, and has been conducted solely by the Federal Bureau of Investigation.
4. That on March 17, 1975, I personally directed Special Agent William Holmes of the Buffalo Field Office of the Federal Bureau of Investigation to make a thorough search of the files of that agency to ascertain whether the residence of SALVATORE BONITO had been the subject of any form of electronic surveillance by the Federal Bureau of Investigation from January 1, 1974 through and including March 17, 1975. I also instructed Special Agent Holmes to conduct a thorough search of the records of that agency to determine whether SALVATORE BONITO had been identified on any electronic surveillances conducted by the Federal Bureau of Investigation during the aforementioned period.

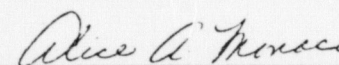
5. That on March 17, 1975, Special Agent Holmes advised me that he had checked the record of the Federal Bureau of Investigation for the period commencing on January 1, 1974 through and including March 17, 1975, and that the Federal Bureau of Investigation had not conducted any form of electronic surveillance at the residence of SALVATORE BONITO and had not identified SALVATORE BONITO on any form of electronic surveillance during the afore-specified period of time.

Respectfully submitted,


JAMES W. GRESTNS
Department of Justice Attorney

Sworn to Before Me

This 17th day of
March, 1975.


ALICE A. MONACO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1976

